

**Notice of Allowability**

Application No.

10/721,034

Applicant(s)

MAST, T. DOUGLAS

Examiner

Jaworski Francis J.

Art Unit

3768

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amdt 11/4/7; invtrshp chng 11/8/4.
2. ☒ The allowed claim(s) is/are 1 - 32.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date See Continuation Sheet
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

  
Francis J. Jaworski  
Primary Examiner

Continuation of Attachment(s) 3. Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date:  
7/30/4;12/27/5;7/3/6,7/13/6,11/20/6;1/4/7,7/5/7,11/1/7,11/5/7,11/14/7.

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

The application has been amended as follows:

The status of the parent case has been updated by insertion into the specification page 1 para [0002] line 1 after " 2002 " has been added -- and now abandoned --.

In view of the papers filed November 8, 2004, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by the addition of inventors Waseem Faidi, Inder Raj S. Makin, Peter G. Barthe and Michael H. Slayton.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

The following is an examiner's statement of reasons for allowance:

The Examiner revisited the references in the record as well as considered applicants' arguments in the amendment filed with the PTO on 10/04/07 which is referenced by its mailing date (10/2/07) in the RCE Transmittal of November 1, 2007, in order to properly consider in turn to additional documents submitted with the four

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Information Disclosure supplements respectively filed July 5, 2007 (crossing with the prior Office action mailed August 3, 2007) and November 1, 5 and 14, 2007.

While the references are largely characterizable as directed to instrument structure and operation per se, Slayton et al US6050943 as exemplary and submitted with the November 5, 2007 IDS establishes a relationship to Reichenberger et al of record in col. 2 bottom but distinguishes derivation of a temperature mapping using time-of-flight and/or amplitude changes in the echo signal of like kind to the imaging signal but in contradistinction teaches away from differential imaging of any type. None of the prior art teaches structure or method for the production of ultrasound diathermy time-varying difference signals as opposed to an imaged difference in association with therapeutic treatment of tissue.


Progeny application Serial No. 10/735,045 now US7211044 was reviewed for any conflict of claiming and is cited for the record. .

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication should be directed to Jaworski Francis J. at telephone number 571-272-4738.

FJJ:fjj

11/27/07

  
Francis J. Jaworski  
Primary Examiner